

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

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KATHRYN BAUMAN RUBENSTEIN,)
PLAINTIFF,)
VS.)
BETTY JO BAUMAN, et al,)
DEFENDANTS.)
JEBRA P. HACKETT, CL)
U.S. DISTRICT COURT)
MIDDLE DISTRICT ALA)
CIVIL CASE NO.: 1:07cv798-MHT

**MOTION OF DEFENDANTS, DON P. BENNETT, NANETTE PITCHER,
PITCHER & ASSOCIATES, DARLENE REAMS, D. REAMS PROPERTIES,
FAYE FERRELL, DOUG McKEOWN, ARTHUR MEDLEY, DEEP SOUTH
DEVELOPMENT CORPORATION TO DISMISS PLAINTIFF'S SECOND
AMENDED COMPLAINT**

COME NOW the Defendants, Don P. Bennett, Nanette Pitcher, Pitcher & Associates, Darlene Reams (incorrectly named in the complaint as Dianne Ream), D. Reams Properties, Faye Ferrell, Doug McKeown, Arthur Medley and Deep South Development Corporation (incorrectly named in the complaint as Deep South Investments) and move the Court to dismiss the Second Amended Complaint of the Plaintiff, hereinafter referred to as Rubenstein, and as grounds for their motion say as follow:

1. On October 1, 2007 the Court rendered its Order on Motion which provides that the "Plaintiff has until October 4, 2007 to file a second amended complaint, 'which specifically states the wrongful acts committed by each Defendant, including the date and place of the wrongdoing, the federal statute or constitutional provision that was violated by each act of wrongdoing, and the specific injury or damage to Rubenstein as a result of each act of wrongdoing'."

2. The Defendants herein allege that no where in Rubenstein's second amended complaint does she state any specific acts of wrongdoing committed by any of said Defendants

3. The only reference to any wrongdoing by any Defendant may appear in Count One of the complaint, as amended, but nothing is alleged with any specificity as ordered by the Court relative to acts of wrongdoing committed by each Defendant and the injury or damage suffered thereby. Defendants herein allege that only Defendants, Don Bennett and Nanette Pitcher are even named in said Count One, paragraphs (82) and (84) but neither of these said Defendants are charged with any act of wrongdoing in said count.

4. Rubenstein makes reference to proceedings in the Circuit Court of Houston County, Alabama relative to Rubenstein's claim of forged documents and the trial court's failure to grant her motions to compel. Defendants herein allege that it is apparent from the copies of records of these proceedings filed herein by Rubenstein pursuant to this Court's order that all these issues and matters have been adjudicated to finality through the state Circuit Court to the Alabama Supreme Court. Defendants herein make reference to the copies of said records of the state Courts' proceedings filed by Rubenstein and particularly the following:

Exhibit 7: Trial court granted motion of Defendant, Don P. Bennett, that he was not compelled to produce documents.

Exhibit 13: State trial court denied Rubenstein's motion to compel Defendant, Don P. Bennett, to submit additional handwriting samples.

Exhibit 14: State trial Court ordered that there was no evidence to support claim that any documents were forged by Defendants, Don P. Bennett or Nanette Pitcher or anyone else.

Exhibit 15: State trial Court denied Rubenstein's motion to compel Nanette Pitcher to submit additional handwriting samples.

Exhibit 18: State trial Court's Order Granting Summary Judgment whereby Rubenstein's complaint was denied.

Exhibit 23: Alabama Civil Court of Appeals' Judgment affirming the trial court's judgment on October 27, 2006

Exhibit 24: Alabama Supreme Court's Judgment denying Rubenstein's Petition for Writ of Certiorari on June 15, 2007.

5. For further answer Defendants herein allege that Rubenstein filed an amendment to her state court action in CV 2002-5063, Houston County Circuit Court on or about September 22, 2006 and an addendum thereto on or about September 26, 2006. Defendants herein allege that a final order was rendered by said Circuit Court on September 20, 2007 whereby Rubenstein's complaint, as amended, for relief was denied. See Exhibit 21 in records of proceedings filed by Rubenstein herein of said Circuit Court case.

6 Defendants herein allege Rubenstein has clearly sought relief in this action contrary to the rule of law known as the Rooker-Feldman doctrine anticipated by this Court in its order of September 17, 2007. *District of Columbia Court of Appeals v. Feldman*, 460 U. S. 462, 486 (1983)

7. Defendants herein reserve their right to seek sanctions against Rubenstein and recovery of their attorneys' fees and expenses under Rule 11, FedR.Civ.P., and 42 U. S. C. Section 1988(b)

WHEREFORE, the Defendants herein move the Court to grant their Motion to Dismiss for the reasons and upon the grounds herein set out and to grant them such other and further relief as warranted by the facts and applicable law.

This the 30th day of October, 2007.



DON P. BENNETT, pro se, and as the
Attorney for the Defendants, Nanette
Pitcher, Pitcher & Associates, Darlene
Reams, D. Reams Properties, Faye
Ferrell, Doug McKeown, Arthur Medley,
Deep South Development Corporation
P.O. Box 1392
Dothan, Alabama 36302
Telephone (334) 792-6380
Facsimile (334) 673-8508
E-mail: 2bennett@comcast.net

CERTIFICATE OF SERVICE

I, the undersigned attorney, hereby certify that on this date, I have given notice of the foregoing by mailing a copy thereof, through the U. S. Mail, first class postage pre-paid, correctly addressed to the following named persons, to-wit:

Kathryn Bauman Rubenstein
Post Office Box 2243
Dothan, AL 36302

Michael Conaway
360 North Oates St.
Dothan, AL 36303

Steve McGowan, Esq.
P. O. Box 2101
Dothan, AL 36302

Sandra K. Anderson
111 Hillbrook Road
Dothan, AL 36303

David Johnston, Esq.
P. O. Box 2246
Dothan, AL 36302

Jeffrey Bauman
P. O. Box 1956
Dothan, AL 36302

Joel Weatherford, Esq.
Farmer, Price, Hornsby & Weatherford
Attorney for Brian Bickhaus, Robert
Birmingham, Pat Black, Richard Fox
Boyd Horn, D. Bryan Jordan, Regions Bank

Jere C. Segrest, Esq.
P. O. Box 1469
Dothan, AL 36302

Hon. Larry K. Anderson
Hon. Drayton Nabers
Hon. Dale Segrest
Hon. Bernard L. Smithart

Andy Hughes
Officer Ivey
Officer Joiner
Officer Kirksey
c/o Gary C. Sherrer, Esq.
P. O. Box 805

Carla Hemby Woodall, Clerk
Cynthia Pittman
c/o Jeffrey H. Long, Esq.
Office of Attorney General
11 Union Street, Floor 4
Montgomery, AL 36130

Joel W. Weatherford
Farmer, Price, Hornsby & Weatherford
J. Michael Conaway
Jere C. Segrest
Lexa E. Dowling
William L. Lee, III
Lee & McInish, P. C.
c/o Wade H. Baxley, Esq.
Post Office Drawer 1486
Dothan, AL 36302
Tommy Scarborough
c/o Chadwick Morriss, Esq.
Bethany Bolger, Esq.
P. O. Box 270
Montgomery, AL 36101-0270

Michael C. Joiner, Esq.
P. O. Box 304000
Montgomery, AL 36130-4000

James D. Hamlett, Esq.
621 S. Hull Street
Montgomery, AL 36104

Elizabeth Smithart
101 Conecuh Ave. W.
Union Springs, AL 36809

Houston County DHR
3201 Ross Clark Circle SE
Dothan, AL 36301

William L. Lee, III, Esq.
William W. Nichols, Esq.
Attorneys for Marilyn Granger, Barbara
Kamensky; Alan Kamensky, B. Wayne
B. Wayne Granger, Granger Limited

Dothan, AL 36302

Margaret Johnson
Houston County DHR
3201 Ross Clark Circle, S. E.
Dothan, AL 36302

Fairfax Nabers
3300 Dell Road
Birmingham, AL 35223

Mrs. Phillip Dale Segrest
606 Camellia Drive
Tallassee, AL 36078

Virginia Lynn McInnis, Esq.
Post Office Drawer 668
Dothan, AL 36302

Cliff Mendheim, Esq.
Attorney for Wallace Cooley
Tom Zeigenfelder and
Zeigooley Realty, LLC
Dothan, AL 36302

Steve McGowan, Esq.,
Attorney for Ann Chandler
Marie W. Bauman
P. O. Box 2
Dothan, AL 36302

Robert M. Girardeau, Esq.
Jeffrey N. Windham, Esq.
Three Protective Center
2801 Protective, Suite 200
Birmingham, AL 35223-2484

Richard H. Ramsey, III, Esq. 3201
256 Honeysuckle Road, Suite 26
Dothan, AL 36301.

James Davis Farmer, Esq.
Virginia Lynn McInnis, Esq.
Attorneys for PeoplesSouth Bank;
Midsouth Bank
Farmer, Farmer & Malone, PA

Lee & McInish
P. O. Box 1665
Dothan, AL 36302

P. O. Drawer 668
Dothan, AL 36302

W. Wallace Hinesley, Esq.
Attorney for Johnston, Hinesley, Flowers,
Clenney & Turner; G. David Johnston
P. O. Box 2246
Dothan, AL 36302

This the 30th day of October, 2007.


OF COUNSEL